



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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EXAMINER	
TAYLOR, D	
ART UNIT	PAPER NUMBER
351	

DATE MAILED: 02/03/88  
MS

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on \_\_\_\_\_ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- |   |   |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice re Patent Drawing, PTO-948.       |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449       | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152 |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474      | 6. <input type="checkbox"/> _____   |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-25 are pending in the application.  
Of the above, claims 1-10 + 21-25 are withdrawn from consideration.
2. ☐ Claims \_\_\_\_\_ have been cancelled.
3. ☐ Claims \_\_\_\_\_ are allowed.
4. ☒ Claims 11-20 are rejected.
5. ☐ Claims \_\_\_\_\_ are objected to.
6. ☒ Claims 1-25 are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. These drawings are ☐ acceptable; ☐ not acceptable (see explanation).
10. ☐ The ☐ proposed drawing correction and/or the ☐ proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved. ☐ disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
12. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received  
☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

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Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-10 and 21-25, drawn to a method for installing a tube in a conduit, classified in Class 405, subclass 154.

II. Claims 11-20, drawn to a coextruded plastic tube, classified in Class 138, subclass 141.

The inventions are distinct, each from the other, because of the following reasons:

Inventions I and II are related as product and process of use.

The inventions are distinct if either (1) the process for using the product as claimed can be practiced with another and materially different product, or (2) the product as claimed can be used in a materially different process of using the product. MPEP 806.05(h).

In this case, the process as claimed can be practiced with another materially different product such as providing rollers on the inside of the conduit.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification restriction for examination purposes as indicated is proper.

During a telephone conversation with Michelle Lester on Dec. 16, 1987 a provisional election was made with traverse to prosecute the invention of Group II, claims 11-20. Affirmation of this election must be made by applicant in responding to this Office action. Claims 1-10 and 21-25 are withdrawn from further consideration by the examiner as being drawn to a non-elected invention. See 37 CFR 1.142(b).

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The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 11-14, 19 and 20 are rejected under 35 U.S.C. 103 as being unpatentable over Bacekowski et al. With respect to claim 11, the term "high tensile strength polymeric material" sets forth no structure that patentably defines over member 14 of Bacekowski et al. The structure recited in claim 14 is considered to be a matter of obvious choice and not a patentable distinction. As to claims 19 and 20, lines 1-3 of claim 19 sets forth only an intended use which is not considered to constitute a patentable distinction. As to claim 13, the particular percentage of silicone in relation to the resin is considered to be an obvious choice.

Claims 15 and 16 are rejected under 35 U.S.C. 103 as being unpatentable over Bacekowski et al as applied to claim 11 above, and further in view of Redding et al. To provide the inner surface of the tube of Bacekowski et al with ribs, such as taught by Redding

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et al, Fig. 2, would be an obvious expedient requiring only mechanical skill and not a patentable distinction.

Claims 17 and 18 are rejected under 35 U.S.C. 103 as being unpatentable over Bacekowski et al as applied to claim 11, above, and further in view of Kleykamp. To provide the tube of Bacekowski et al with alternating circumferentially inwardly and outwardly directed positions, such as taught by Fig. 1 of Kleykamp, would be an obvious expedient requiring only mechanical skill and not a patentable distinction.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Examiner Taylor at telephone number 703-557-6200.

Taylor-cw  
01-11-88  
02-03-88

  
Dennis L. Taylor  
Primary Examiner  
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